

Town of Lincoln

Zoning Board of Review

100 Old River Road, Lincoln, RI

Minutes of August 5, 2014 Meeting

Present: David DeAngelis-Chair, Mark Enander, Lori Lyle, Stephen Kearns, Robert Oster, John Barr, Town Solicitor

Excused: John Bart, Russell Hervieux-Zoning Official

Minutes

Motion made by Member Kearns to accept the Clerk's Minutes as presented. Motion seconded by Member Barr. Motion carried by all present.

Correspondence

None

Applications:

Danny DeJesus, 17 Laurel Lane, Lincoln, RI – Application for Dimensional Variance seeking side and rear setback relief for the construction of a two car garage.

AP 29, Lot 243 Zoned: RL 9

This application represents a request for a Dimensional Variance to construct a two car garage to the end of an existing home. The

applicant proposes to construct a two car garage addition along with a handicapped bathroom/entrance to the right side of an existing single family home. The addition is proposed to be 32' wide x 26' deep. The property has some nonconforming setback issues that would need to be cleared up. The proposed addition is 12.5' from the north side property line in which 15' is required. Therefore the applicant would need 2.5' of north side relief for the proposed addition. The existing home is 9.11' from the side property line on the southeast corner in which 15' is required. Therefore the applicant would need 5.89' of side relief on the southeast corner of the existing home. The existing home is 9.74' from the side property line on the southwest corner in which 15' is required. Therefore the applicant would need 5.26' of side relief on the southwest corner of the existing home. The existing deck is 37' from the rear property line in which 40' is required. Therefore the applicant would need 3' of rear relief for the existing deck. The proposed plan meets the lot coverage limit.

This application was continued from the July agenda allowing applicant to return with accurate site plan.

Chairman read into the record standards that need to be met for a Dimensional Variance.

Witness

David Cardoso, Brother in law of applicant

Family needs a two car garage for a wheelchair accessible van from

interior of the home. The existing house has no garage. Applicant has mobility using a motorized scooter. The addition would be located to the right side of the house. Applicant is asking for relief to build a two car garage to allow use of handicap accessible van from inside the house. Exterior of addition will match existing house. Property was surveyed by Norbert Therrien in April 2014.

Applicant submitted into evidence Exhibts #2, 3, 4 and 5 letters from neighbors in support of the proposed addition.

Opposed:

David Nunes

Submitted into the record Exhibit #1 stating his reasons for the Board to deny the application. He felt the addition would compromise the open space of the area because it would create a monstrous structure. Submitted plan makes the house look like a strip mall. His home is located across the street from applicant and is 34 feet with no garage and there are three houses between the applicant's home and his house.

Chairman read into the record Planning Board/Technical Review Committee recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Denial of the application for a dimensional variance seeking side and rear yard setback relief for the construction of a two

car garage. According to the application and plans, the proposed project also includes a connecting entrance area and restroom. The overall addition measures 32 feet wide by 26 feet long. The Planning Board felt that this addition and in particular the proposed garage was rather generous in size and that the applicant can easily reduce the overall size of the addition by approximately 4 feet. This reduction in size would eliminate the need for the side yard dimensional variance. Therefore, the Planning Board feels that the current site plan and application does not represent the least relief necessary, the application does not present a compelling reason for the need for such a large addition, and is not due to the unique characteristics of the subject land.

Motion made by Member Lyle to deny the application. Motion made by Members Enander and Barr to deny the application with Members Kearns and DeAngelis voting to grant the application. Motion to deny carried with a 32 vote.

Jacqueline Gervais, 7 Rutland Street, Manville, RI – Application for Dimensional Variance seeking front setback relief for the construction of a porch.

AP 36 Lot 194 Zoned: RL 9

Chairman read into the record standards that need to be met for a Dimensional Variance. Alternate Member Oster sitting on this application.

Chairman addressed applicant stating there were issues with the application regarding lot coverage and the plan attached to application showed structures on the lot which were not reflected on Town records. Applicant informed Chairman that the sheds on the submitted plan had been torn down. The plan attached to the application were used a sewer line site plan and not a certified plan with a surveyor stamp. The Board needs a site plan indicating accurate dimensions and no accessory structures before they can render a decision. Informed applicant they have the option of proceeding with plans attached or continue the application to the September agenda and return with a detailed accurate site plan with surveyor stamp attached. Applicant informed Chairman Russell Hervieux, Zoning Official had informed them the sewer plan was fine and they should have been informed a stamped site plan was necessary they would have attached the proper documentation. Applicant's front steps are not accessible because they are crumbling.

Applicant asked the Board for a continuance to the September agenda.

Motion made by Member Oster to continue the application to the September agenda. Motion seconded by Member Enander. Motion carried by all present.

Lori Ann Edwards, 9 Bernon Drive, Lincoln, RI – Application for Dimensional Variance seeking side setback relief for the construction of a garage addition.

AP 22 Lot 153 Zoned: RS 12

Member Oster did not participate on this application. He knows applicant but there was no need to recuse himself.

Chairman read into the record standards that need to be met for a Dimensional Variance.

Applicant wants relief to construct a 22'x 24' garage addition with bedroom above. Purchased property in 2000. Addition will have a pitched roof and will match exterior of house. Chairman addressed applicant stating there currently is a violation issue on file for a deck on the property and another outstanding violation for fencing surrounding a pool on site. He further stated the attached site plan dates back to from 1999 and the proposed addition is hand drawn on the plan resulting in an inaccurate plan. The Board needs an accurate plan to render a decision. The plan drawn by Steven Long indicates applicant needs 8feet + or – relief. This creates a problem with granting accurate relief and that is the reason applicant needs an accurate site plan.

Attorney DeSisto stated based on a recent survey the dimensions on the site plan can be verified and are close enough for the Board to

render a decision with conditions in place. Applicant stated she explored other options for location – cannot go to the rear of the property because of an existing deck and pool.

Chairman read into the record Technical Review Committee/Planning Board recommendation.

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Technical Review Committee recommends Denial of the application for a dimensional variance seeking side setback relief for the construction of a garage addition. According to the application and plans, the proposed garage addition will reduce the side yard setback to only 6 feet wide. The TRC feels that a six foot side yard setback was very tight. The TRC also feels that the applicant has other options to build an addition within the rear of the house. The Technical Review Committee feels that the current site plan and application does not represent the least relief necessary, the application does not present a compelling reason for the need for such a large garage addition, and is not due to the unique characteristics of the subject land. The Technical Review Committee, which the Zoning Official is a member of, would like to make the Zoning Board aware that the existing above ground pool does not have a fence around it. This is against the zoning ordinance and should be rectified as soon as possible.

No opposition present.

Motion made by Member Barr to grant the application for Dimensional Variance stating at the time the building permit is pulled applicant will present an accurate site plan to the Zoning Official and any and all existing violations on the property will be brought into compliance. He also stated the granting of relief on the southeast corner not exceed 8 feet and southwest corner not to exceed 6 feet of relief. He further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience.**

Motion seconded by Member Kearns. Motion carried by all present.

Barbara Patriarca, 478 Angell Road, Lincoln, RI – Application for Dimensional Variance seeking side yard setback relief for the construction of an addition.

AP 45 Lot259 Zoned: RA 40

Represented by: Anthony Robert Perretti

Chairman read into the record standards that need to be met for a Dimensional Variance. Member Oster sat on this application.

Applicant wants to construct a 14' x 29.5' media room to the left side of the home. Needs 10 feet relief on the left side southwest corner and 4 feet relief on the south west and northeast corner of the property. The house has a 16 ' 32' inground pool located inside the house. There is a 80 year tree and septic system to the rear of the property and cannot be relocated. Appliant is looking to enjoy the use of the home. Property is located in a residential neighborhood and there is a buffer between the home and neighbors. Exterior of addition will match existing house.

Chairman read into the record Planning Board/Technical Review Committee recommendation.

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Technical Review Committee recommends Approval of this application for a dimensional variance seeking side yard setback relief for the construction of an addition.

The submitted plans show that the applicant has limited areas where an addition can be built due to the existing configuration of the house. The Technical Review Committee finds that the applicant presents a realistic site layout that meets the intent of the zoning

ordinance and is the least relief needed. The submitted plan shows that a dimensional variance is needed due to the unique characteristics of the subject land.

Motion made by Chairman to grant the Dimensional Variance seeking 10 feet side relief on the southwest corner; 4 feet side relief on the southwest corner of the existing house; 4 feet side relief on the northeast corner of the existing house; and application meets lot coverage limit. He further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of**

the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

- **The relief requested is the least relief necessary.**
- **The hardship amounts to more than a mere inconvenience**

Motion seconded by Member Barr. Motion carried by all present.

Motion made by Member Enander to adjourn the meeting. Motion seconded by Member Barr. Motion carried by all present.

Respectfully submitted,

Ghislaine D. Therien

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Recording Secretary